



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: COHU, Inc.

File: B-233172

Date: February 3, 1989

DIGEST

Award on an initial proposal basis, without discussions, is proper where the solicitation advises offerors of this possibility, and the competition clearly demonstrates that acceptance of an initial proposal will result in the lowest overall cost to the government.

DECISION

COHU, Inc. protests the award of a contract to Burle Industries, Inc., under request for proposals (RFP) No. 1111-720038, issued by the Department of State (DOS). COHU principally contends that the agency performed a faulty price evaluation in making an award on the basis of initial proposals. We deny the protest.

The RFP, issued on February 25, 1988, solicited offers for closed circuit television security systems, including a first article. The RFP stated that a single award would be made to that responsible offeror, whose offer conforming substantially to the solicitation, achieves the highest score for selection ranking. The RFP provided that price would be weighted 35 percent and technical evaluation factors weighted 65 percent. The RFP contained a basic year requirement and four options and provided that the government would evaluate offers by adding the total price for all options to the total price for the basic year requirement. The RFP also advised offerors that the government may award the contract on the basis of initial proposals and that each offer should contain the offeror's best terms from a price standpoint.

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DOS received three proposals. The technical proposals were evaluated and the following scores (maximum 100 points) were awarded:

COHU	77.41
Vicon	76.38
Burle	76.45

All three offerors were determined acceptable and were considered technically equal.

Burle was the only offeror to submit prices for all items for the base year and the options. Vicon did not offer item 10. COHU did not offer item 26 (fiber optic equipment) in option years 2, 3, and 4. DOS decided to make award based on initial proposals, without discussions. Since COHU and Vicon failed to submit prices for all items, DOS made price adjustments to allow an equal comparison of the offers. Since Vicon's offer was missing item 10 and was the highest priced offeror, no adjustment was made to its offer as the agency concluded that Vicon's price would only increase. In order to permit equal comparison between COHU and Burle, Burle's offer was adjusted to delete item 26 in option years 2, 3, and 4. Burle's adjusted price was \$216,134 and COHU's price was \$227,557. Burle was determined to be the lowest priced offeror, and award was made, without discussions, to Burle on September 30. On October 12, COHU filed this protest.

In its initial protest, COHU contended that the contracting officer improperly adjusted its price upward for the purpose of price evaluation without contacting COHU. COHU also objected to the fact that best and final offers (BAFO) were not requested. However, in its comments on the agency report, COHU's basic concern is whether the basis for award was consistent with the evaluation criteria listed in the RFP.

As a general rule, a contracting agency may make an award on the basis of initial proposals, without holding discussions or requesting BAFOs, provided that (1) the solicitation advises offerors of this possibility, and (2) the competition or prior cost experience clearly demonstrates that acceptance of an initial proposal will result in the lowest overall cost to the government. Phone-A-Gram System, Inc., B-228546; B-228546.2, Feb. 17, 1988, 88-1 CPD ¶ 159.

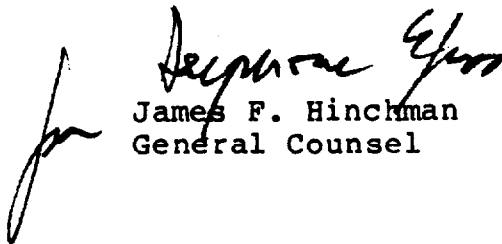
Here, the RFP specifically advised offerors that discussions might not be held and that award may be made on the basis of initial proposals. The record shows, and the protester has

failed to allege or show otherwise, that the contracting officer reasonably determined that the technical proposals received were acceptable and essentially technically equal. As there were no technical deficiencies to be resolved through discussions and as there was adequate competition, we have no basis to question the contracting officer's determination to award the contract to Burle, the lower priced offeror, on the basis of initial proposals. In this regard, the record shows that COHU's initial offer was only nominally lower in price than Burle because, contrary to the RFP requirements, COHU did not offer prices for item 26 in option years, 2, 3, and 4.

We find no basis to object to DOS' adjustment of Burle's offer by excluding Burle's prices for item 26 in option years 2, 3, and 4 in order to be able to compare the offers on an equal basis and to determine the lowest cost to the government. We also note that COHU's proposal could have been rejected by the agency as technically unacceptable for failing to meet a material requirement of the solicitation by its failure to include a price for a line item, where, as here, the solicitation informed offerors that a single award would be made. See Seigels, Inc., B-231030, Apr. 28, 1988, 88-1 CPD ¶ 416.

Finally, COHU complains that the agency failed to promptly advise the firm of the award (COHU received notification of the award 7 calendar days after contract award). While we do not believe the delay was unreasonable, we point out that any such delay does not affect the validity of the agency's determination to award on the basis of initial proposals. See Golden Reforestation, Inc., B-230169, Feb. 25, 1988, 88-1 CPD ¶ 196.

The protest is denied.


James F. Hinchman
General Counsel